

BEFORE THE BUSINESS RESOURCES DIVISION
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the adoption) NOTICE OF ADOPTION
of New Rules I through XVI)
pertaining to the award of)
grants and loans under the Big)
Sky Economic Development)
Program)

To: All Concerned Persons

1. On September 22, 2005, the Department of Commerce published MAR Notice No. 8-99-49 regarding the public hearing on the proposed adoption of the above-stated rules concerning the award of grants and loans under the Big Sky Economic Development Program at page 1711 of the 2005 Montana Administrative Register, Issue No. 18.

2. The Department has adopted New Rules I through XVI (8.99.901 through 8.99.916) exactly as proposed, but has amended the Big Sky Economic Development Fund Application Guidelines dated 2006 that are incorporated by reference in New Rule IV (8.99.904) based on comments received.

3. A public hearing was held on October 13, 2005. The Department has thoroughly considered all comments received. The comments received and the Department's response to each follow:

Comment 1: A comment was received with regard to a requirement that limited eligible businesses to basic sector business. Concern was expressed that this would limit the funding of small business projects in rural areas.

Response: The current language in the guidelines that the commenter took exception to provides:

"Trust Fund earnings will be awarded to local governments for use in efforts to develop economic development projects, through cooperative endeavor with a business, which provides good paying jobs to Montana residents. Eligible businesses shall meet one or more of the following criteria:

1. A basic sector company defined as a company that:
 - a. Generates more than 50% of their total dollar sales from outside Montana,
 - b. More than 50% of their product or services enters into the production of exported products outside of Montana,
 - c. Defined as a "value-adding business" by the Montana Board of Investments,

2. Other business entities that:

- a. Are engaged in business activities that will provide a significant positive economic impact to the community, region and/or the state beyond the job creation involved,
- b. Do not compete locally, regionally and/or within the state with existing businesses that would result in a negative impact on competitors in the community, region and/or the state, and
- c. Provide a service or function that is essential to the locality, region and/or the State of Montana.

NOTE: Eligible businesses must also meet all of the program requirements outlined in these guidelines.

Other for-profit business entities, which do not meet the above stated criteria, may be an eligible recipient if it is determined by the Director of the Department that the activities that the business is primarily engaged in would have a substantial impact on the economy of a community, region and/or the state."

As set forth in the guidelines, in certain circumstances, the Department does recognize non-basic sector and/or other businesses to be eligible businesses, which includes small businesses in rural areas. Therefore, the Department does not believe that any changes to the guidelines in this area are necessary.

Comment 2: A comment was received with regard to a requirement that a local government work with a Certified Regional Development Corporation to implement and administer a project. The commenter wanted the local government to have the ability to choose the economic development organization to work on a project.

Response: The current language in the guidelines that the commenter took exception to provides:

"Special purpose agencies such as Certified Regional Development Corporations and other eligible economic development organizations are not eligible to apply directly to the Department for Category I financial assistance; however, local governments are statutorily required to work with an economic development organization on a proposal, and economic development organizations may be involved in implementing and administering a project by sub-recipient agreement, if the eligible applicant agrees to such an arrangement.

As determined by the Department, local governments and sub-recipients must have the management capacity to undertake and satisfactorily complete the proposed project and assure proper management of Trust Fund awards."

As set forth in the guidelines, the Department does not require that a local government work with a Certified Regional Development Corporation. The Department recognizes the local governments' discretion in agreeing to enter into a sub-recipient agreement with other eligible economic development organizations for the implementation and administration of an economic development project. The economic development organization must, however, have the management capacity to undertake and satisfactorily complete the proposed project and assure proper management of Trust Fund awards. Therefore, the Department does not believe that any changes to the guidelines are necessary.

Comment 3: Several comments were received that suggested the Department should strike all language in the program guidelines which provides a preference for projects that involve at least ten or more new eligible jobs. The commenters suggested that this preference was contrary to the legislative intent of the program.

Response: The Department agrees with these comments. The Department, therefore, has stricken the following text from the guidelines, "Projects preferably should involve at least ten (10) new eligible jobs unless unique circumstances are documented that indicate a significant, positive, secondary impact to the local economy."

BUSINESS RESOURCES DIVISION
DEPARTMENT OF COMMERCE

By: /s/ ANTHONY J. PREITE
ANTHONY J. PREITE, DIRECTOR
DEPARTMENT OF COMMERCE

By: /s/ G. MARTIN TUTTLE
G. MARTIN TUTTLE, RULE REVIEWER

Certified to the Secretary of State November 28, 2005